UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Jose Cruz AVALOS-Ibarra,** Defendant	Magistrate Docket No. **'08 MJ 1122** COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **April 11, 2008** within the Southern District of California, defendant, **Jose Cruz AVALOS-Ibarra,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **14th** DAY OF **APRIL, 2008.**

Barbara L. Major
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Jose Cruz AVALOS-Ibarra

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On April 11, 2008, Border Patrol Agent D. Adame was performing Border Patrol duties in Boulevard, California near Jewell Valley Road and Old Highway 80. This area is approximately twenty miles east of the Tecate, California Port of Entry and three miles north of the United States/Mexico Border. Agent Adame was in full uniform and driving a marked Border Patrol vehicle.

At approximately 11:40 a.m., Agent Adame observed a single male subject walking northbound on Jewell Valley Rd. The subject had a disheveled appearance with a tattered black shirt and black pants. Agent Adame approached the subject and asked him, in English, if everything was alright. The subject replied, in English, he was just taking a walk and that he lived nearby. When questioned as to his address, the subject claimed not to know because he was new to the area. Agent Adame asked him if he new what town and were he had walked from. The subject replied San Diego and that he had just walked from Mexico. At that time Agent Adame identified himself as a United States Border Patrol Agent and questioned the subject as to his citizenship. The subject, later identified as the defendant **Jose Cruz AVALOS-Ibarra**, admitted to being a citizen and national of Mexico illegally in the United States. The defendant further admitted to not having any documentation which would allow him to reside, remain, or work in the United States legally. At approximately 11:45 a.m., Agent Adame placed the defendant under arrest and transported him to the Boulevard Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **November 2, 2007** through **El Paso, Texas.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on April 12, 2008 at 10:00 a.m.

Irene S Aguirre
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of ~~2~~ one page(~~s~~), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **April ~~10~~ 11, 2008,** in violation of Title 8, United States Code, Section 1326.

Barbara L. Major
United States Magistrate Judge

4/12/08 at 11:44Am
Date/Time